



General Assembly

January Session, 2001

***Amendment***

LCO No. 8457

Offered by:

SEN. SULLIVAN, 5<sup>th</sup> Dist.

SEN. JEPSEN, 27<sup>th</sup> Dist.

SEN. PETERS, 20<sup>th</sup> Dist.

SEN. WILLIAMS, 29<sup>th</sup> Dist.

SEN. FONFARA, 1<sup>st</sup> Dist.

To: Subst. House Bill No. 6636

File No. 820

Cal. No. 527

***"AN ACT CONCERNING PRIVATIZED PUBLIC RECORDS."***

1 Strike out everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 1-200 of the general statutes is repealed and the  
4 following is substituted in lieu thereof:

5 As used in this chapter, and in section 2 of this act, the following  
6 words and phrases shall have the following meanings, except where  
7 such terms are used in a context which clearly indicates the contrary:

8 (1) "Public agency" or "agency" means: [any]

9 (A) Any executive, administrative or legislative office of the state or  
10 any political subdivision of the state and any state or town agency, any  
11 department, institution, bureau, board, commission, authority or

12 official of the state or of any city, town, borough, municipal  
13 corporation, school district, regional district or other district or other  
14 political subdivision of the state, including any committee of, or  
15 created by, any such office, subdivision, agency, department,  
16 institution, bureau, board, commission, authority or official, and also  
17 includes any judicial office, official, or body or committee thereof but  
18 only [in] with respect to its or their administrative functions; [. "Public  
19 agency" includes an]

20 (B) Any person to the extent such person is deemed to be the  
21 functional equivalent of a public agency pursuant to law; or

22 (C) Any "implementing agency" as defined in section 32-222.

23 (2) "Meeting" means any hearing or other proceeding of a public  
24 agency, any convening or assembly of a quorum of a multimember  
25 public agency, and any communication by or to a quorum of a  
26 multimember public agency, whether in person or by means of  
27 electronic equipment, to discuss or act upon a matter over which the  
28 public agency has supervision, control, jurisdiction or advisory power.  
29 "Meeting" shall not include: Any meeting of a personnel search  
30 committee for executive level employment candidates; any chance  
31 meeting, or a social meeting neither planned nor intended for the  
32 purpose of discussing matters relating to official business; strategy or  
33 negotiations with respect to collective bargaining; a caucus of members  
34 of a single political party notwithstanding that such members also  
35 constitute a quorum of a public agency; an administrative or staff  
36 meeting of a single-member public agency; and communication  
37 limited to notice of meetings of any public agency or the agendas  
38 thereof. A quorum of the members of a public agency who are present  
39 at any event which has been noticed and conducted as a meeting of  
40 another public agency under the provisions of the Freedom of  
41 Information Act shall not be deemed to be holding a meeting of the  
42 public agency of which they are members as a result of their presence  
43 at such event.

44 (3) "Caucus" means a convening or assembly of the enrolled  
45 members of a single political party who are members of a public  
46 agency within the state or a political subdivision.

47 (4) "Person" means natural person, partnership, corporation, limited  
48 liability company, association or society.

49 (5) "Public records or files" means any recorded data or information  
50 relating to the conduct of the public's business prepared, owned, used,  
51 received or retained by a public agency, or to which a public agency is  
52 entitled to receive a copy by law or contract, whether such data or  
53 information be handwritten, typed, tape-recorded, printed,  
54 photostated, photographed or recorded by any other method.

55 (6) "Executive sessions" means a meeting of a public agency at  
56 which the public is excluded for one or more of the following  
57 purposes: (A) Discussion concerning the appointment, employment,  
58 performance, evaluation, health or dismissal of a public officer or  
59 employee, provided that such individual may require that discussion  
60 be held at an open meeting; (B) strategy and negotiations with respect  
61 to pending claims or pending litigation to which the public agency or a  
62 member thereof, because of [his] the member's conduct as a member of  
63 such agency, is a party until such litigation or claim has been finally  
64 adjudicated or otherwise settled; (C) matters concerning security  
65 strategy or the deployment of security personnel, or devices affecting  
66 public security; (D) discussion of the selection of a site or the lease, sale  
67 or purchase of real estate by a political subdivision of the state when  
68 publicity regarding such site, lease, sale, purchase or construction  
69 would cause a likelihood of increased price until such time as all of the  
70 property has been acquired or all proceedings or transactions  
71 concerning same have been terminated or abandoned; and (E)  
72 discussion of any matter which would result in the disclosure of public  
73 records or the information contained therein described in subsection  
74 (b) of section 1-210.

75 (7) "Personnel search committee" means a body appointed by a

76 public agency, whose sole purpose is to recommend to the appointing  
77 agency a candidate or candidates for an executive-level employment  
78 position. Members of a "personnel search committee" shall not be  
79 considered in determining whether there is a quorum of the  
80 appointing or any other public agency.

81 (8) "Pending claim" means a written notice to an agency which sets  
82 forth a demand for legal relief or which asserts a legal right stating the  
83 intention to institute an action in an appropriate forum if such relief or  
84 right is not granted.

85 (9) "Pending litigation" means (A) a written notice to an agency  
86 which sets forth a demand for legal relief or which asserts a legal right  
87 stating the intention to institute an action before a court if such relief or  
88 right is not granted by the agency; (B) the service of a complaint  
89 against an agency returnable to a court which seeks to enforce or  
90 implement legal relief or a legal right; or (C) the agency's consideration  
91 of action to enforce or implement legal relief or a legal right.

92 (10) "Freedom of Information Act" means this chapter.

93 (11) "Governmental function" means the administration or  
94 management of a program of a public agency, which program has  
95 been authorized by law to be administered or managed by a person,  
96 where (A) the person receives funding from the public agency for  
97 administering or managing the program, (B) the public agency is  
98 involved in or regulates to a significant extent such person's  
99 administration or management of the program, whether or not such  
100 involvement or regulation is direct, pervasive, continuous or day-to-  
101 day, and (C) the person participates in the formulation of  
102 governmental policies or decisions in connection with the  
103 administration or management of the program and such policies or  
104 decisions bind the public agency. "Governmental function" shall not  
105 include the mere provision of goods or services to a public agency  
106 without the delegated responsibility to administer or manage a  
107 program of a public agency.

108       Sec. 2. (NEW) Each contract in excess of two million five hundred  
109       thousand dollars between a public agency and a person for the  
110       performance of a governmental function shall (1) provide that the  
111       public agency is entitled to receive a copy of records and files related  
112       to the performance of the governmental function, and (2) indicate that  
113       such records and files are subject to the Freedom of Information Act  
114       and may be disclosed by the public agency pursuant to the Freedom of  
115       Information Act. No request to inspect or copy such records or files  
116       shall be valid unless the request is made to the public agency in  
117       accordance with the Freedom of Information Act. Any complaint by a  
118       person who is denied the right to inspect or copy such records or files  
119       shall be brought to the Freedom of Information Commission in  
120       accordance with the provisions of sections 1-205 and 1-206 of the  
121       general statutes.

122       Sec. 3. (NEW) Notwithstanding any other provision of the general  
123       statutes, an agreement between a state agency and a foundation, as  
124       defined in section 4-37e of the general statutes, shall not be deemed to  
125       be a contract for the performance of a governmental function within  
126       the meaning of section 2 of this act."